



CONTINUATION OF PUBLIC HEARINGS:

Nathan Kahn as Contract Purchaser – Application for Revised Site Plan for Previously Approved Special Exception in accordance with Sec. 10.D.4. of the Zoning Regulations – “Lakeside Townhouses”, 44 East Hayestown Rd. (#I09108) – SE #639. Public hearing opened 2/21/07 – 35 days will be up 3/28/07.

Mrs. Emminger announced that we had received a 35 day extension today from the applicant which allows us to keep this hearing open to the first meeting in May. Attorney Carrie Larson from Cohen & Wolf said Landscape Architect Rosemary Aldrich and Project Engineer Mike Mazzucco would present the options to the Commission.

Ms. Aldrich said there were two different landscape options forwarded to the Planning office today. She said Option A proposes adding evergreen trees along the borders of the Liccardi & McGetrick properties. She said there were no stumps there for her to determine what was there, the land had been either stripped or graded. Mr. Mazzucco said 40 years ago this property was all mined and the steep area is the result of that mining. She then described Option B which proposes installing the same fence as Mr. Antonio has installed on his property. She said the fence gives more of a privacy screening. This option removes evergreens and uses deciduous materials that give more of a gardeny look. She added that these are ornamental grasses, which are fast growing plants that don't require irrigation.

Chairman Finaldi asked when the optimum time for planting is and Ms. Aldrich said mid April to mid May would be best because by June it gets too hot. She said the first summer, they will need to be watered, but after that they should be okay on their own. Mr. Manuel questioned the height of the plantings shown on the plan. Ms. Aldrich said it would be more advantageous to plant smaller material. She gave an example of here reasoning as an 8 ft. Maple tree has root ball of the same diameter which means a huge hole has to be dug in order to plant it, which is disruptive and takes up a lot of ground area. Mr. Manuel asked what will become of the stumps. Ms. Aldrich said right now they help provide stability, but hopefully some of them will eventually decay. She added that she does not know if it will be possible to get a stump grinding machine in there, but they will have to work around them. Mr. Keller asked how many stumps are left. Ms. Aldrich said there are 29 stumps that are at least 6 inches and a few more that are even larger. Mr. Urice said he does not think the 1 to 3 in. caliper trees are adequate to replace the large trees that were there. He asked if they considered removing the stumps and planting larger trees. She said she did consider doing that and planting the largest trees they can but that may not be feasible. She said they are going for a quantity of low growing shrubs to fill the area in more quickly and preserve the slope. Right now if they try to plant an 8 ft. diameter tree, there is no way to stabilize it. The smaller plantings will be the things that stabilize the larger plantings. Larger trees planted on the slope could be taken down by the wind. She added that usually a larger tree is staked, but the more they fuss with the slope the greater the possibility of it eroding. She said to put a mature root ball on the slope you need something to keep it in place such as the stumps. Mrs. Emminger said she had the same concerns as Mr. Urice who asked why they are using smaller trees instead of larger trees. She said she had discussed this with Brian Morgenroth (from the City's Engineering Dept.) and Ernie Despojado (the City's retaining wall expert) and they both agreed that larger trees would never hold on that slope because there is nothing for the roots to hang onto. Mr. Keller suggested

they grind the stumps down to ground level and plant around them so it is more aesthetically pleasing. Mr. Manuel said it seems they are avoiding dealing with the slope and suggested a retaining wall be installed to stabilize. Mr. Mazzucco said the original design was based on this area not being disturbed. Said there is not a real concern about washout because the soils are sand and gravel, the slopes were created by the mining so water is not an issue. Mrs. Emminger said she did a second staff report, which requests that a geo-technical engineer be brought in to assure the stability of the reconstructed slope. Mr. Mazzucco said they would respond to the Engineering Dept. letter which requested a soil scientist be brought in and the comments be forwarded to this Commission. He asked the Commission to decide which option they want. Mr. Urice said he is not yet at the point where he could recommend either of these as acceptable. He added that he would like to see larger plantings because of the majesty of them. Mrs. Emminger asked them to verify if big trees can go on the slope. Chairman Finaldi pointed out that they are entering the optimum time to do the planting. Mrs. Emminger said she would ask the Commission to require a fence while this is being considered because there is a safety issue here. She explained that they need it to block the neighbor's view and buffer them from the noise of the construction site. Since they have determined that a buffer is required, the Commission can require them to install a fence now to protect the safety of the neighbors. Mr. Keller said that is okay as long as it doesn't tie them to choosing the option that includes fencing. Mrs. Emminger said they could even choose to require both things. Mr. Urice said there is a third option which is to get back to the natural habitat. He then asked what has to be done to allow them to plant larger trees so they can survive. Mr. Manuel asked them to consider a limited system of retaining walls so they can get larger trees in this area instead of just on top of the hill. Mr. Urice then said they might not want to rush this just to get in on this planting season.

Chairman Finaldi asked if there was anyone to speak in opposition

Ron Underwood said it looks like some of the new trees are to be planted where he has old trees. Ms. Aldrich said they are planting right to the property line. Mr. Underwood asked what will hold the roots of the trees that are on his side. Ms. Aldrich said there is a little berm that slopes down onto his property line and she is showing shrub plantings which are designed to stabilize without affecting roots of existing trees. Chairman Finaldi said it seems that Mr. Underwood is concerned that these plantings will undermine his tree roots. Ms. Aldrich said using the smaller materials requires smaller planting areas which means there is less chance of affecting the root system. Chairman Finaldi asked Mr. Underwood if he is in favor of a fence and he said yes, but he wants stabilization too.

Henry Antonio, 21 Wood St., said he wanted to correct something that was said because when the trees were cut down, there were two or three enormous stumps that were removed. He said once this project was started, he decided to replace his old falling down fence so he wouldn't be looking right into the project. Before he did this, he asked the Project Manager and was told that nothing was going to be disturbed. He said now he wants compensation for the fence he installed, especially if they are going to install additional fencing tied into his. He added that since they removed all the trees, now he can see right into the project. He suggested that maybe a retaining wall is the answer.

Mr. Keller asked to verify that the buffer is 25 ft./3 in., since the neighbors are saying it is not that wide. Mrs. Emminger said the applicant has to submit revised plans so the City can

Mr. Keller asked Mr. Underwood if he wants a fence. Mr. Underwood said he does because he wants some privacy. Mr. Antonio said he likes the idea, but thinks they owe him for his fence. They said they understand. Mrs. Emminger said they have heard from the Commission and opposition that they want a fence installed now. She then asked Attorney Larson if they could get assurances from applicant that it will happen. Atty Larson said they will have to do whatever to put up a fence. Mrs. Emminger pointed out that there is no permit required to put up a fence. Mr. Urice asked about erosion control measures. Ms. Aldrich said the first thing they need to do is to get the geotechnical engineer out to the site to determine the best way to do this.

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Attorney Fran Collins said the dates are wrong as the public hearing was actually opened on 3/7/07 and therefore the 35 days would be up on 4/11/07. Chairman Finaldi said that would be corrected. Attorney Collins said all of the responses are in and they have satisfied all of the concerns, so he asked that they close the hearing. He added that the project engineer Dainius Virbickas is present to answer questions. Attorney Collins said although they have approvals from the City Traffic Authority and the Traffic Engineer, they still need STC approval. Mr. Virbickas expressed concern about some of the work that is being done in conjunction with the Timber Oaks project which is right down the road. Mr. Urice mentioned the building orientation and Mr. Keller said he prefers to see the front of the buildings facing the street but since this is only one building it is okay this way. Mrs. Emminger said she had verified this as it came up at the last meeting and Mr. Keller is right that if there are two or more buildings, they have to face the street. Mr. Virbickas said they went around with it and this was the best plan aesthetically. Mr. Keller asked if these buildings would be sprinklered and Mr. Virbickas said yes.

Chairman Finaldi asked if there was any one to speak in opposition to this application and there was no one. He then asked Mrs. Emminger if they were waiting for any other information or reports. Mrs. Emminger said they were not, everything is in and all reports are back. Chairman Finaldi asked for a motion and Mr. Deeb made a motion to close the public hearing. Mr. Keller seconded the motion and it was passed unanimously.

Sycamore Trails Group LLC – Application for twelve (12) lot subdivision (33.49 acres) “Savannah Hills” in the RA-80 Zone – 193-207 Great Plain Rd. (#J04084, #J04085, #J05099, #J05100) – Subdivision Code #06-09. This application has been DENIED by EIC. *Public hearing closed 2/7/07 – 65 days will be 4/13/07.*

Mr. Keller started by reading the first reason: "Number one, Use of accessways in the design of the subdivision as proposed, while allowed at the discretion of the Planning Commission in accordance with Chapter 4, Section B.11 of the Subdivision Regulations, results in an increase in density beyond which could be attained utilizing standard subdivision and lot area requirements. The Subdivision Regulations provide discretion to the Planning Commission to authorize the use of accessways to serve an area that would otherwise be landlocked and which cannot be made accessible by an alternative road layout providing that the aims and purposes of the Subdivision Regulations are furthered by their use, Chap. 4, Sec. B.11. The policy of the Planning Commission when considering whether to authorize the use of accessways is to request an applicant to first determine if the proposed subdivision could be designed to meet the minimum lot area, minimum square, setback requirements, and driveway grade requirements of the Zoning Regulations. This layout would then be compared to the desired subdivision design to determine if the criteria which would allow the Commission to authorize the use of accessways can be met. Thereafter, once the site density was confirmed, the Commission could consider alternative layouts which include accessway lots, the use of which advanced the aims of the Subdivision Regulations. The Commission has in the past authorized applicants to utilize accessways to minimize road length and reduce impervious surfaces in furtherance of the aims and purposes of the Regulations. The Planning Commission and Dept. of Planning and Zoning reviewed an alternate site development plan, as submitted by the applicant, for compliance with the criteria noted above. Lots 1, 2, 10 and 11 are not in compliance with the minimum square requirements. The Zoning Regulations state that the minimum square must be "capable of being drawn entirely within the boundaries of said lot behind the front yard setback." The minimum squares for lots 1, 2, 10 and 11 are either located on the front yard setback or on the property line. Therefore, the twelve lots as shown on the applicant's plan fail to comply with the Zoning Regulations. The revised subdivision plans included a proposed conservation easement area. The Planning Commission, in review of the alternate site development plan has determined that the driveway for lot 12 encroaches into the conservation area. The Commission must assume that the construction of a driveway and subsequent grading would not be permitted within the limits of the required conservation easement and therefore this specific lot fails to comply with the requirements noted above. There is insufficient evidence in the record to support the applicant's claim that under a standard subdivision design, twelve single-family lots could be constructed in accordance with Zoning and Subdivision Regulations and therefore use of accessways would result in an increase

*in the number of residential building lots that could be developed as supported by evidence in the record."*

Mr. Urice read from this point on: *"Number two, the application fails to provide for proper erosion and sedimentation control measures to adequately protect resources from substantial harm due to development of the site as proposed. Sec. 8.A. of the City of Danbury Zoning Regulations, Erosion and Sedimentation Controls, requires an application for site plan approval to include proper erosion and sedimentation controls. Such controls are necessary to prevent soil erosion and sedimentation from occurring as a result of non-agricultural development. Plans are required to include the proper provisions or controls for water disposal and the protection of soil surfaces during and after construction in order to promote the public safety, health, convenience and general welfare of the community. Sec. 8.A.2 of the Regulations requires that no person shall do any grading, stripping, excavating or filling or undertake any earth change unless a valid grading permit be obtained by the applicant from the City of Danbury Environmental Inspector or, when an activity occurs on a regulated wetland or watercourse, from the City of Danbury Environmental Impact Commission. Proposed erosion and sedimentation control measures are evaluated during the review process and ultimately, a grading permit is issued. Sec. 8.A.2 of the Zoning Regulations and Chap. 3, Sec. B.19 of the Subdivision Regulations requires that proper provision be made for erosion and sedimentation control where the development of individual lots and roads require a change of grade. The City of Danbury Inland Wetlands and Watercourses Regulations are implemented by the EIC. These Regulations are intended to carry out and effectuate the purposes and policies of the CT General Statutes, Secs. 22A-36 through 22A-45, inclusive, as amended. The request by Sycamore Trails Group, LLC for a permit to conduct regulated activities at 193-207 Great Plain Road for the Savannah Hills Subdivision was denied by the EIC on February 20, 2007. The application to the EIC contained erosion and sedimentation control measures. Said decision of the EIC is on file with the Dept. of Planning and Zoning and is incorporated herein by reference. The Planning Commission hereby considers such denial of the permit to conduct regulated activities by the EIC and the reasons set forth for such decision. As a result, the Planning Commission finds that the project as proposed fails to adequately protect the environmental features of the site and resources of the City of Danbury and State of CT resulting in significant harm to such resources. In addition to being unable to obtain the required grading permit pursuant to Sec. 8.A.2 of the Zoning Regulations, the applicant has not provided for proper erosion and sedimentation control measures as required by the Subdivision Regulations, Chap. 3, Sec. B.19. As a result, the project fails to adequately protect public interests in the health, safety and welfare of the general public."*

Chairman Finaldi then took over reading: *"Three, the Planning Commission in its review of the application cannot find that the land to be subdivided is of such character that it can be used for building purposes without danger to health and safety resulting from the required roadway construction and lot development and anticipated associated slope stability and stormwater runoff impacts, Subdivision Regulations, Chap. 4, Sec. A.2. Testimony given by the applicant's engineer indicates that significant earthen work, that includes blasting, cutting, filling and grading, is proposed in the area serving lots 9, 10, 11, and 12 to construct the proposed road and said driveway entrances. As shown on the plans, this site work is proposed during Phase III of the road construction. The construction narrative for Phase III does not fully explain the extent of work required to install the proposed road and driveway entrances. The narrative states that 'all disturbed areas to drain into a self contained area nearly eliminating any erosion concerns'. The applicant failed to provide, despite numerous requests by various City staff, a*

*more detailed explanation of how the soil surfaces both during and after construction would be stabilized to protect downgradient properties, particularly those adjacent to the site across Old Town Rd., Chap 4, Sec. A.2. The plans also failed to sufficiently address such slope stability and potential stormwater runoff impacts resulting from the blasting required to install the proposed road and driveways. The information in the record regarding the phasing plan and blasting impacts related to road and driveway construction is insufficient to enable the Commission to conclude that the development of the site as proposed could be constructed safely and without causing undue harm to adjacent properties."*

Mr. Keller read the last reason: *"Four, the Planning Commission cannot find that the subdivision as proposed and designed will properly protect the health and safety of future occupants within the subdivision and existing residents of the community, Subdivision Regulations, Chap. 4, Sec. A.2.1. The Subdivision Regulations identify land with locational or environmental characteristics that require additional precautions for development and appropriate safeguards to protect the health and safety of future occupants within the subdivision and existing residents of the community. The land proposed for development of Savannah Hills meets several of the characteristics listed, including land containing slopes of 20% or greater and wetlands, watercourses, etc. as defined by the EIC, and natural drainage ways. Existing topographic information was submitted by the applicant verifying the site contained slopes in excess of 20%. In addition, documentation submitted by the applicant's engineer defined a watercourse as "wetlands and watercourses include areas that possess poorly and very poorly drained soils, alluvial and floodplain soils, and surface water features such as streams, brooks, rivers, ponds, lakes, swamps, marshes, bogs and fens" and such conditions existed on site. Such conditions provide evidence that additional precautions are necessary for development on this site. As noted above, the development as proposed requires blasting and grading activities. Such activities occur on slopes in excess of 20% grade. There is insufficient evidence in the record to satisfy the Commission's stated concerns regarding development on this steep site. Additional precautions and safeguards were not proposed nor was an alternative considered which would result in fewer lots and therefore less disturbance to steep areas of the site. The proposed stormwater management plan provided that runoff from the developed areas of the site would eventually discharge to the on-site wetlands and watercourses. A component of the stormwater management system included a series of deep manhole structures to be located within the right-of-way of the proposed City street. The City of Danbury Engineering Dept. reports expressed concerns relative to the depth of such structures and the long term maintenance of same and indicated that City policy was to avoid such deep manholes. As an alternative, the Engineering Dept. requested consideration of a different stormwater management system design that would have separated the quantity of runoff into two systems and discharge points thereby eliminating the necessity of the deep manhole structures. The applicant failed to consider or present such alternatives albeit desiring the City to accept the system and the road. In addition, the City Engineering Dept. recommended the use of more acceptable and standard methods of stormwater treatment, i.e., use of gross particle separators, to ensure that runoff is properly treated prior to entering the on-site wetland areas. The applicant's engineer failed to consider or propose the use of such methods. Such additional precautions were dismissed by the applicant as unnecessary nor warranted. As a result of the above, the Planning Commission finds that the project as designed does not incorporate such additional safeguards and precautions warranted to properly protect the natural features of the site as required in the City of Danbury Subdivision Regulations, Chap. 4, Secs. A.2.1 & A.5."*

8-24 Referral/February '06 CC Agenda Item 26 – Eagle Road Center LLC/Transfer of Property to City of Danbury. *Tabled pending receipt of additional information.*



At 9:55 PM, Mr. Urice made a motion to adjourn. Mr. Cerminara seconded the motion and it was passed unanimously